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SUMMARY RECORD OF THE 1635th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 31 October 1997, at 3 p.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI

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The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of Lithuania (continued) (CCPR/C/81/Add.10; CCPR/C/61/LIT/2)

1. At the invitation of the Chairperson, the members of the delegation of Lithuania took places at the Committee table.

2. The CHAIRPERSON invited the delegation of Lithuania to reply to the questions addressed to it at the previous meeting.

3. Mr. JANUSKA (Lithuania), replying to questions concerning freedom of information, said that following the adoption of a new Public Information Law in July 1996, the Press Control Board referred to in paragraph 123 of the report (CCPR/C/81/Add.10) was no longer in existence. The freedom to seek, receive and disseminate information provided for under the new Law could only be restricted by law in the interests of protecting human life, health or honour or upholding the constitutional framework. Citizens had the right to challenge any decision to restrict the freedom of information taken by government institutions. The Ethics Commission of Journalists and Publishers referred to in paragraph 59 of the amendments to the initial report distributed by his delegation was a public institution not under government control. It considered breaches of journalistic ethics and could intervene in court proceedings brought by citizens in connection with media reports injurious to their honour. There was a law which established criminal responsibility for divulging State secrets, but it had never been applied to the media. As to the question asked in connection with the freedom of movement, he said that the law provided for no restriction whatever in that respect.

4. In reply to a question by Mr. Scheinin on acts of vandalism committed in cemeteries, he said that the penalty for that crime was deprivation of freedom for not more than three years. He was unfortunately unable to provide precise statistics on that point, but his own personal conviction was that such acts were not specifically directed against any national minority and did not have anti-Semitic connotations. The Lithuanian press was perhaps inclined to be a little hypersensitive on that issue. He would do his best to provide some statistics at a later stage.

5. Replying to questions by Mr. Klein and others on the status of aliens in Lithuania, he said that aliens enjoyed the same rights and had the same responsibilities as Lithuanian citizens except where otherwise provided by the Constitution. In particular, aliens were free to enjoy their own cultural heritage and use their national language. They could enter the country on production of the requisite documents and could travel anywhere in the country without any restriction. However, an alien could be expelled from Lithuania for illegal entry, violation of the Constitution or for committing a crime. An alien who had been detained was entitled to contact the diplomatic mission of his country and could not be extradited to a country where he was in danger of being persecuted. Asylum-seekers were required to submit a written or oral application for refugee status. If granted such status, they could stay in a

refugee centre, where they received free accommodation, food and medical care. A person found not to be a bona fide refugee could not leave the centre for more than 72 hours, and a person whose personal identity could not be established was not permitted to leave the centre at all. The large number of migrants, including many illegal ones, who used Lithuania as a country of transit on their way to Western Europe certainly represented a problem for the Government, which was nevertheless doing its best to shoulder its responsibilities. The refugee centre at present housed some 1,000 persons.

6. Mr. Kretzmer had raised the issues of genocide and anti-Semitism. Lithuania was a party to the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. He could not provide any examples of acts of anti-Semitism or racial discrimination. An investigation had recently been launched against a political group, composed mainly of young people, which did not qualify for registration as a political party because its membership was below the required minimum of 400. The group, which was known for its extreme views, would be liable to criminal prosecution if the investigation showed that it had breached the law. As to the question about an apparent inconsistency between freedom of expression and a ban on anti-government activities, it was clearly based on a misunderstanding. The ban did not apply to organizations which were simply critical of the Government but to terrorist organizations which sought to overthrow the Government by force and to violate the Constitution and public order.

7. Mr. JURGELEVICIUS (Lithuania), replying to questions relating to the legal status of the Covenant in Lithuania, drew attention to the introductory part of the report, which made it clear that the Covenant, like other international treaties which had been duly ratified, was an integral part of the country's legal system. The Covenant could be used as a source of law by any individual citizen, and any domestic law inconsistent with the Covenant could be challenged before the courts. As to the right to address petitions to the Constitutional Court, Lithuanian law did not provide for individual applications to that Court, but a private person could apply to an ordinary court, which, if it found the case to be sufficiently important, could forward it to the Constitutional Court. So far there had been no case in which the Constitutional Court had been asked for a ruling with reference to the Covenant. A question has been asked about the President's powers in connection with the appointment of Constitutional Court judges. Those powers amounted to nominating three candidates, whose particulars were duly published in the official gazette, the eventual appointment being made by Parliament from a much larger list of nominees.

8. Answering Mr. Lallah's question concerning the distinction between citizenship and nationality, he said that the use of the word "nationality" in the report was not connected with ethnic origin. The term "citizenship" should have been used throughout the English version. In reply to a question by Mr. Buergenthal about the spelling of names in official documents, he said that anyone could spell their own name according to its pronunciation in their mother tongue. Obviously, the name appearing in all personal documents had to be spelt the same way, and the passport was the key document for that purpose. Replying to a question about children born to parents who were not citizens of

Lithuania, he said that the law on citizenship was based on lex soli, which meant that children born in Lithuania of non-Lithuanian parents had the right to opt for Lithuanian citizenship on reaching a certain age.

9. On the subject of conscientious objection, he said that a person did not have to be a member of any specific organization in order to have the right to refuse military service. As to the language qualifications required for persons wishing to enter government service, there was indeed a qualifying test but it was so easy that it was generally passed by over 90 per cent of candidates.

10. Mr. JANUSKA (Lithuania), enlarging upon the previous speaker's reply to a question concerning the status of the Covenant in Lithuania, said that, in view of the basic rule to the effect that an international instrument which had been duly ratified prevailed over any domestic law that was inconsistent with the provisions of such an instrument, the status of the Covenant could in fact be said to be somewhat higher than that of domestic law.

11. Ms. BURNEIKIENE (Lithuania), adding to the reply given to Mr. Klein's question concerning freedom of movement, said that that right was not restricted in any way, everyone being free to choose their place of residence or to have several places of residence depending on their property rights. Replying to a question about the official procedure for obtaining an exit visa, she said that the only visa required was that of the country of destination. A regulation requiring the passport of a Lithuanian citizen wishing to leave the country to be stamped as being valid abroad was about to be rescinded under a new law currently before Parliament. The object of the regulation had been to stop criminals from leaving the country, but that was no longer considered necessary.

12. Replying to a question by Mr. Lallah about how the changeover from the old legal system to the new one was being achieved, she said that the process was a long and difficult one and had not yet been completed. Every change introduced called for modifications in all laws involving parallel legal procedures. Such a fundamental transition could not be achieved overnight. In reply to Mr. Lallah's second question concerning secret organs investigating the opinions and beliefs of students or other citizens, she said that no such organs existed. The purpose of the law on criminal surveillance was exclusively to combat criminal activity. Replying to a question by Mr. Buergenthal concerning police powers, she said that article 36 (c) of the Law on Operative Activities referred to in the amended version of paragraph 101 of the report was no longer in force. As for police powers exercised in the frontier regions (para. (d) of the same article), they could not be described as an invasion of privacy. A police officer could ask to enter someone's residence near the frontier in order to check that no illegal migrants were hiding there, but unless the officer produced a warrant the owner of the house could refuse entry.

13. Replying to a question by Ms. Evatt about the compulsory treatment of alcoholics, she said that a law adopted in June 1994 provided for the social rehabilitation of habitual offenders acting under the influence of alcohol or drugs. A court could decide to send such persons - with the exception of persons under 18, pregnant women, women with children under the age of eight,

and people with serious mental problems - to an institution where they would receive compulsory rehabilitation treatment. Lastly, replying to a question about vagrancy, she said that vagrants were not treated as criminals unless they committed a specific crime.

14. Ms. STAUGATTYTE (Lithuania), responding to the questions relating to women's issues and domestic violence, said the previously mentioned draft legislation on gender equality was currently under consideration by the Government. In its initial version it had covered only equality in the workplace, but the scope had subsequently been broadened. It did not, however, establish quotas for the election of women to parliamentary or other office: it was entirely up to the people of Lithuania to determine, by their votes, how many women were elected.

15. In response to Mr. Yalden's question about the number of women in governmental institutions, she said that in the most recent parliamentary elections in 1996, women had won 18 per cent of all seats in the new Parliament. Women candidates in the election had accounted for 26 per cent of the total. In comparison with the Parliament elected in 1992, the number of women had increased - from 7 per cent to 18 per cent. Women were well represented in the newly formed Government: of the 17 ministerial posts, 2 were held by women, and 12 out of 58 of all deputy ministers and departmental heads were women. The number of women candidates in local elections had likewise increased. One of the aims of the action plan for the advancement of women was to strike a balance in future between women and men candidates, with the number of members of one gender never to account for more than two thirds of the whole. In terms of women's representation at the international level, 36 per cent of all members of the diplomatic service were women, and three diplomatic missions - to the Organization for Economic Cooperation and Development, Turkey and Norway - were headed by women.

16. Mr. Yalden had also raised the issue of domestic violence. The Criminal Code had no provisions on criminal responsibility for violence against female family members, but penalties were envisaged for rape and sexual intercourse with prepubescent girls. If a man had sex with his daughter, for example, he would be punishable by up to five years' imprisonment. Rape was punishable by up to 15 years' imprisonment. Domestic violence fell under the articles in the Criminal Code dealing with bodily injury.

17. Ms. Evatt had asked what steps were being taken to aid women who had been subjected to forced prostitution and to prosecute those responsible. In 1996, a comprehensive set of preventive measures had been adopted, involving the police, health care institutions and the mass media in an effort to bring such offenders to justice. It had resulted in the prosecution of nearly 2,400 individuals. The Criminal Code established a penalty of up to five years' imprisonment for procurement and up to three years for sexual assault, but the new Criminal Code now being drafted would undoubtedly increase the penalties for both those offences. Even now, the penalty imposed for procurement could be detention for more than five years if the person involved was a minor, mentally disabled or financially dependent. Transnational procurement was punishable by two to four years' imprisonment.

18. Mr. GODA (Lithuania) said a number of questions had been asked concerning the death penalty. If a court imposed that penalty, the sentence could not be carried out pending the consideration by the President of an appeal for clemency. For the past two years, however, the President had taken the initiative of suspending his consideration of such appeals, with the result that in practice the death penalty had not been carried out. Thus, while the imposition of the death penalty was possible, its execution was not. The new draft Criminal Code would permit Lithuania to accede to the Second Optional Protocol, because it contained no provisions authorizing the imposition of the death penalty. A decision on the Code and its contents, specifically with regard to the death penalty, had not yet been reached, however. According to opinion polls, the number of citizens who remained in favour of the death penalty was declining, but it still represented a sizeable majority, and that was one of the reasons why the abolition of the death penalty had not yet been made law.

19. Turning to Mr. Kretzmer's question about the use of the term "citizen" in articles 35 to 37 of the Constitution, he said it was true that the term had created difficulties when Lithuania, as a newly independent State, had sought to accede to the Covenant. The President had accordingly requested the Constitutional Court to determine whether the use of the term limited the rights of residents of Lithuania who did not hold Lithuanian citizenship. The answer given had been that guarantees of human rights were not linked to a formal notion of citizenship, and that the term "citizen" should be interpreted broadly in any matter relating to human rights.

20. Lord Colville, citing article 31 of the Constitution, had asked for clarification on the rights of accused persons and the admission of guilt. There were more detailed provisions on such matters in the Code of Criminal Procedure, which prohibited the obtaining of evidence from an accused person by coercion or other illegal means and invalidated any evidence acquired by such means. Any admission of guilt by an accused person must be repeated before the court, which must be guided in its decision by the Roman-law principle that reasonable doubt must be interpreted to the benefit of the accused. The new draft Criminal Code in no way weakened the position of the accused and should provide for even better protection of their rights.

21. Education of the public about the rights guaranteed by the Covenant was ensured at a variety of levels. In the case of lawyers, for example, there was a special department in the Ministry of Justice devoted to the development of professional skills, and one of its tasks was to help practising lawyers learn about international instruments. Such assistance was especially important for lawyers who had been practising for many years, many of whom had taken their degrees before Lithuania's accession to independence. The current curricula of law faculties laid great emphasis on international instruments, and the new generation of lawyers would thus have substantial knowledge of the Covenant. Information about the Covenant's provisions was also provided to civil servants in the context of the overall programme for upgrading their professional qualifications. Numerous NGOs disseminated information on the provisions of human rights instruments. The human rights centre in Vilnius frequently organized conferences and meetings on the subject. A parliamentary committee on human rights was also active in the dissemination of the relevant information.

22. The provision of legal aid for needy individuals depended on the nature of the proceedings, whether civil or criminal. The Code of Criminal Procedure guaranteed each person legal aid - free of charge, and funded by the State if necessary. Law enforcement officers were obliged to ask a person, at the start of the proceedings, whether he or she wished a lawyer to be provided. In addition, the report listed cases in which the involvement of a lawyer was obligatory - for example, if the accused was a disabled person or under 18 years of age.

23. In civil proceedings, individuals were exempted from payment of the State's fee if they were unable to afford it. In the system of social institutions that was being built up, including the new social assistance centres, lawyers and teachers from higher educational institutions provided legal assistance free of charge to those who could not afford to pay.

24. Mr. Prado Vallejo had asked about administrative detention. Activities that represented a breach of public order were considered to be violations of administrative law. Some of those activities were punishable by fairly light fines. For the most serious instances of anti-social behaviour - for example, harassment of other persons in public - the punishment was up to 30 days of administrative detention. Such a sentence could be handed down only by a court, and the accused had the right to appeal. There was also the option of administrative detention of someone who had created a public disturbance, but the length of detention could not exceed five hours; it was used merely for the purpose of establishing the identity of the offender and drafting the official report on the incident.

25. Mr. JANUSKA (Lithuania) announced that his delegation had concluded its comments under part I of the list of issues.

26. Ms. EVATT thanked the delegation for the detailed information already given. With regard to the new draft laws on equality for women, however, she would like to hear what enforcement mechanisms or procedures were to be provided.

27. Mr. SCHEININ said he looked forward to receiving more information from the delegation in written form at a later stage. He had one specific question regarding expulsion. Lithuanian law seemed to provide protection only in situations covered by the term "persecution". He would like to know what happened in the case of a person facing the risk of inhumane treatment if expelled.

28. The CHAIRPERSON invited the delegation to answer the additional questions.

29. Mr. GODA (Lithuania) said, in response to Mr. Prado Vallejo, that the information in paragraph 40 of the report was outdated: the Administrative Code no longer contained such a provision. In reply to Mr. Scheinin, he said that aliens applying for asylum would never be treated inhumanely. Persons entering the country as would-be immigrants were housed in a special institution with very strict rules, and those who later asked for asylum were placed in a different institution where they enjoyed specific rights and guarantees.

30. In response to Ms. Evatt, he said that the laws in question were only now being drafted. He could, therefore, only tell the Committee what was suggested. On the question about members of the Seimas or Lithuanian Parliament, he said that members must be 25 years of age or over. Candidates for the presidency must have reached the age of 40. He assured the Committee that those questions which his delegation was unable to answer would be carefully considered and written information would be provided at a later date.

31. The CHAIRPERSON invited the delegation to proceed to the questions in part II of the list of issues.

32. Mr. JANUSKA (Lithuania) said, in response to question 12 regarding the role and functions of the Ombudsman, that the Seimas Ombudsmen's Office was provided for by the Constitution and its activities and membership regulated by the Law on the Seimas Ombudsman. Its task was to investigate citizens' complaints about abuse of authority by State and local government employees and other officials. Its jurisdiction did not cover the activities of the President of the Republic, the members of the Seimas, judges, or the activities of the Government or local councils. Ombudsmen were appointed by the Seimas for a term of four years from a list of candidates nominated by the Speaker. Five were appointed: two to investigate the activities of State officials, one to investigate the activities of the officials of military institutions and two to investigate the activities of local government officials.

33. Every citizen had the right to file complaints with an Ombudsman and complaints could also be referred to the Office by members of the Seimas. Complaints must be submitted within three months of the action in question; anonymous complaints and complaints filed after the expiration of the time limit were not investigated unless the Ombudsman decided otherwise. On completion of an investigation, the Ombudsman concerned could: refer the matter to an investigative body if a criminal offence was suspected; bring a court action recommending the dismissal of the guilty official and suggesting compensation for the victim; recommend that the head of the department or institution involved should impose disciplinary penalties on the official; bring the non-compliance with the law or violation of professional ethics to the attention of the official concerned; reject the complaint if the violation was not confirmed; and lastly, notify the Seimas or the President of the Republic of any violations committed by Ministers or other officials accountable to the Seimas or the President.

34. The Ombudsman did not revise or revoke the unlawful decision himself. His recommendation that the unlawful decision should be reviewed must be examined by the institution to which the official was accountable. Complaints must be investigated and a response made to the complainant within one month of receipt. If necessary, the period of investigation could be extended for a further month.

35. In 1996, a total of 1,278 complaints had been received. About three quarters of them had concerned State officials, and the remainder local government officials. In the first half of 1997, a total of 681 complaints had been received. Most complaints about State officials concerned the

activities of the Ministry of the Interior or those of penal institutions and courts. Complaints against local government officials largely concerned housing conditions and the restitution of real property.

36. In response to question 13 about the independence and impartiality of the judiciary, he said that cases were tried by competent, independent and impartial courts formed in compliance with the Constitution and the relevant law. Their competence was ensured by the fact that only persons of impeccable reputation, at least 25 years of age and possessing legal qualifications could be appointed as judges. Judges were required continuously to improve their professional qualifications and a training centre for them had been established in July 1997. Their independence and impartiality were guaranteed by the Constitution and by the Law on Courts. A special institution provided for by the Constitution and the Law on Courts issued recommendations to the President regarding the appointment, promotion, transfer or dismissal of judges.

37. Judges could not hold any other elective or appointed post or be employed in any commercial activity. They could not receive any remuneration other than their salary and payment for any educational activities and they could not participate in the activities of political parties or other political organizations. A judge could not be held criminally liable or be arrested without the consent of the Seimas or the President of the Republic. Judges of the Supreme Court and the Court of Appeal could be removed from office by the Seimas under the impeachment procedure for gross violation of the Constitution or if they had committed a crime. The Code of Criminal Procedure established the right to challenge the judge, and the participants in legal proceedings must have their right to challenge explained to them.

38. District court judges were initially appointed for a term of five years. On satisfactory completion of the term, the appointment was extended to the age of 65. Judges of the other courts served to age 65, save for the Supreme Court, where the age of retirement was 70. The procedure for the dismissal of judges was set out in detail in the Law on Courts. In addition to resignation and retirement or certified illness, dismissal could be on account of conviction for an offence or for behaviour discrediting the office. The President of the Supreme Court and other judges were dismissed from office by the Seimas on the recommendation of the President of the Republic. The President and other judges of the Court of Appeal were dismissed by the President on the recommendation of the Minister of Justice and of the Council of Judges, with the authorization of the Seimas. Disciplinary action could be brought against judges for negligence, for behaviour discrediting their office, or for repeated violations of substantive and procedural law by the Court of Honour of Judges, whose members were elected by their peers. The Court of Honour could also recommend that the Seimas should initiate impeachment proceedings against a judge of the Supreme Court or the Court of Appeal.

39. In response to question 14 on the right to privacy, he said that the rights provided in article 36, paragraphs 4 (d) and 5 (c), of the Law on Police, referred to in article 102 of the report, were exercised strictly in accordance with the Law on Operative Activities, the Code of Criminal Procedure, the Administrative Code and other relevant national laws.

40. In response to question 15 concerning freedom of conscience and religion and the provisions of the Law on Religious Communities, referred to in paragraphs 114 and 115 of the report, he said that the Law granted the status of traditional religious denominations and communities to those religions which had historic roots in Lithuania and comprised a part of its historical, spiritual and social heritage. According to the Constitution, traditional or State-recognized churches and religious organizations enjoyed the rights of a legal person. Under article 6 of the Law, other non-traditional denominations could be granted State recognition provided their teaching and rites were not contrary to law and morality. Such non-traditional religious denominations acquired the rights of a legal person upon registration of their statutes or equivalent documents. The documents must contain information on the denomination's name, its registered office, the fundamentals of its religious teaching, organizational structure and leadership, and the procedure for the management and disposal of the property owned by it. Article 7 of the Law stipulated that all religious communities and denominations having the rights of a legal person could obtain State support for culture, education and charity, in accordance with the procedure established by law. The Catholic Church in Lithuania had the same status as the eight other traditional religious denominations. All could obtain support from the State in proportion to the number of their members and, at the request of parents, instruction on the traditional religions could be provided in State schools.

41. In response to question 16 on conscientious objection, referring to paragraphs 112 and 113 of the report, he said that the citizens of the Republic in the age group for conscription (19-27 years) were exempted from compulsory military service if their religious or pacifist convictions prevented them from performing military duties. Conscripts who wished to perform alternative service applied in writing to the conscription commission for their place of residence. Alternative service was performed within the national defence system. Conscientious objectors had the same status as ordinary soldiers and were assigned to duties which did not require the use of weapons or violence. Community service in public institutions could also be performed as an alternative, at the Government's discretion.

42. In response to question 17 on freedom of association, he said that, prior to the adoption of the Law on Public Organizations in 1995, the procedure for the registration and activities of such organizations had not been regulated by law. Currently, more than 900 public organizations were registered with the Ministry of Justice.

43. In response to question 18 on the dissemination of information about the Covenant, he said that a revised official translation of the Covenant was available in Lithuania, both as a separate document and as part of various compilations of international instruments. Its provisions were frequently publicized by the mass media. Information about it was channelled to public servants, teachers, lawyers and police officers through the relevant Ministries. All public servants and officials were required continuously to upgrade their qualifications and knowledge of the Covenant was part of that process. All the ministries had contributed to the report and made proposals regarding it, and information on its preparation had been widely publicized by the media.

44. The CHAIRPERSON invited the members of the Committee to ask supplementary questions.

45. Mr. POCAR thanked the members of the delegation for the answers already given. He had some additional points to raise, however, about part II of the list of issues. Regarding article 17 of the Covenant on the right to privacy, it was not clear from the answer given how article 36 of the Law on Police was currently applied. He was particularly interested in paragraph 102 (d) of the report, which stated that "While monitoring immigration regulations and the pass system at the State border", a police officer had the right to enter a person's residence without a warrant. He would like to know what was meant by State border. Over how wide an area could police officers take such action? Subparagraph (e) of that paragraph referred to the possibility of action in regard to persons who were "on the police prevention register". He would like to know how that register was compiled.

46. With regard to article 18 of the Covenant on freedom of conscience and religion, he noted that it was stated in paragraph 115 of the report that, in order to function legally, religious communities must be registered. He had understood from the delegation that, to become a legal person, a community must be registered. He could not agree, however, that in order to function legally a religious denomination or community must be registered. Such a community could exist and be active without being registered as a legal person.

47. In connection with question 16, on conscientious objection, he would like to know how, in practice, people were allowed to perform alternative service. If it was necessary, in practice, for the person applying to be a member of a pacifist or religious organization, he did not think that article 18 of the Covenant was being fully observed. Freedom of conscience was an individual right that could not be subject to participation in a community.

48. Question 17, which referred specifically to the Law on Non-Governmental Organizations, had not been fully answered. According to paragraph 149 of the report, an organization, in order to be able to operate, must be registered in the counties or districts in which it operated. The implication was that, in order to exist, an association must be registered. According to paragraph 150, however, that registration could be refused, although refusal could be appealed. He noted that article 22 of the Covenant did not allow for restrictions on the establishment of an association in the form of a requirement that it must be registered before it could become legal. He would welcome more information on all the points he had raised.

49. Mr. LALLAH asked whether any judges had been dismissed or been the subject of disciplinary proceedings since Lithuania had recovered its independence and, if so, in what circumstances. Was the general public in Lithuania aware that the country's initial report was being considered by the Committee? What arrangements had been made to publicize the Committee's questions and conclusions?

50. Mr. KLEIN said he had the same difficulty as Mr. Pocar in understanding the information provided on article 22. Article 2 of the Lithuanian Law on

Associations stated that an association was a legal person from the date of its registration and a non-profit-making organization. Would an association that sought to make profit be ineligible to acquire legal status? What happened if an association failed to register?

51. Article 2 of the Law on Political Parties and Political Organizations stated that the establishment and activities of political parties were strictly forbidden under certain circumstances. Were parties automatically prohibited under those circumstances? Or was there a specific judicial procedure to be followed? Who was authorized to determine whether an activity was strictly prohibited and to prescribe the consequences?

52. Ms. EVATT said that, according to paragraph 112 of the report, the provisions of paragraph 8 of the Provisional Law on Compulsory Military Service concerning alternative service had been suspended. She wished to know whether the exemption from service provisions were in operation and, if so, whether membership of an organization was a prerequisite for exemption on those grounds. Were religious communities able to operate freely if they had not registered and were there any religions in that position? Had any applied for registration and been turned down?

53. Mr. SCHEININ associated himself with the concerns expressed by others regarding restrictions on the grounds for conscientious objection. Were there any cases in which requests for exemption from military service had been denied?

54. According to the amendments to the initial report, article 198 of the Code of Criminal Procedure allowed an inquiry body and investigator to conduct wire-tapping and make recordings of telephone conversation if there were grounds to believe that could provide information about the planning, commission or completion of a serious offence. It was further stated that wire-tapping of suspects or persons charged with a crime and records of their telephone conversations were undertaken only on the basis of a reasoned decision by an examining officer or investigator and with the approval of the president of a court. Was court authorization mandatory in every case of telephone-tapping or only where a person had already been charged with a crime?

55. Mr. ANDO asked whether a religion enjoyed certain privileges when it was recognized by the State or whether recognition was a mere formality. Was the granting or refusal of recognition an administrative rather than a legal decision? And was there any provision for a court review of such decisions?

56. The report had provided details of the establishment and functioning of trade unions but he had the impression that in almost all countries of the former Soviet Union trade unions were unpopular because of their legacy of close association with the public authorities. How many factory employees were organized in trade unions? And were unions genuinely working for the benefit of the workforce?

57. Mr. BHAGWATI asked whether the Ombudsman's recommendations were binding. If he found that an official had abused his position, was corrective action mandatory or was a superior official entitled to reject the finding?

58. Mr. JANUSKA (Lithuania) said that religions and associations could function without being registered but they would not enjoy certain privileges such as banking and rent facilities. In general, registration was merely a formal act for accounting and other similar purposes. He had no knowledge of any case in which a religious organization had been refused permission to register. There was a special procedure for prohibiting the activities of political parties or other organizations and having them struck off the register, for example when they engaged in activities of a racist nature or in warmongering.

59. The Law on Compulsory Military Service did not make membership of an organization a prerequisite for applying to undertake alternative service. It provided for an individual right of exemption and established a special mechanism for application for alternative service.

60. Any religious community could apply for registration but the provisions governing recognition by the State of traditional denominations were closely connected with the procedure for restitution of property. The State's decision to restore property rights and confer eligibility for restitution of nationalized property was related to the fact that the denominations concerned had existed in the period between the two world wars prior to Soviet occupation.

61. A number of trade unions which had survived from former times were still functioning but they kept a low profile. However, certain professional associations of, for example, doctors and teachers were both active and independent and played an important role in political life.

62. Mr. JURGELEVICIUS (Lithuania) said that there was a judicial procedure for suspending the activities of political parties. The Ministry of Justice informed the courts of any objectionable activities and gave its opinion on whether the law had been breached. The courts then ruled on whether the party should be banned or denied permission to register.

63. Mr. GODA (Lithuania) said that the basic provisions regarding wire-tapping dated from the former Code of Criminal Procedure adopted in the 1960s. Following independence, however, an effort had been made to harmonize the legislation with human rights instruments and as a result many amendments had been adopted and new laws introduced. The Law on Operative Activities overlapped to some extent with the Code of Criminal Procedure when it came to regulating wire-tapping. In both cases, but under article 10 of the Law on Operative Activities in particular, the permission of a county court judge was required for any wire-tapping operation.

64. He had no precise figures for the number of judges dismissed since independence. Recently, however, two judges had been dismissed through impeachment in Parliament for taking bribes and attempting to adjudicate accordingly. They had both been sentenced to terms of imprisonment. Judges had also been dismissed on other grounds, but never for political reasons. The total number of judges had increased since independence and judges from the former regime had remained in office.

65. Ms. BURNEIKIENE (Lithuania) said, in response to questions concerning article 36 of the 1990 Law on Police, that the concept of administrative supervision had been abolished in 1994 and the relevant provisions had subsequently been eliminated from the Criminal Code. In Lithuania, as in other countries, an area close to the frontiers had been made subject to a special frontier regime. It generally extended to five kilometres from the frontier but the distance was often much less. Frontier violations and other similar breaches could be prosecuted only if they had occurred within the frontier region. If a person crossed the frontier without proper documents and penetrated further into Lithuanian territory than that established region, administrative procedures would not be applicable. Police officers were authorized to question residents of frontier areas regarding violations of the Administrative Code and the presence of aliens and to enter their homes between 6 a.m. and 10 p.m. on condition that they had obtained a warrant for the purpose.

66. Pre-trial detention had been abolished with effect from 1 July 1997 and the relevant articles had been revoked.

67. On 2 July 1997, Parliament had adopted a law designed to harmonize the private and public interests of persons holding public office and to ensure that any decisions they took accorded priority to public over private interests. Members of Parliament fell into that category and were prohibited from seeking personal advantage, for example of a commercial or fiscal nature, through their parliamentary activities.

68. The CHAIRPERSON commended the delegation for its earnest and intensive dialogue with the Committee during a first encounter that might in some respects have seemed a baptism of fire.

69. A certain amount of confusion in the presentation of the report could no doubt be attributed to a lack of experience and would soon be remedied. It was understandable that Lithuania, which had only recently recovered its sovereignty, could not build a democracy based on the rule of law overnight. But it was moving in a direction that would eventually ensure a high level of respect for human rights, as attested by the fact that one of Lithuania's first acts following independence had been to accede to the Covenant. Other positive features were the new Criminal Code, the creation of an Ombudsman's Office, and the declared intention to abolish the death penalty and accede to the Second Optional Protocol. Under those circumstances, it was disturbing to hear that the death sentence was still being passed.

70. Uncertainty also persisted regarding the incorporation of the Covenant in internal legislation. Although the Constitution stated that the Covenant had legal force and that international treaties took precedence over domestic law, it seemed that the implementation of their provisions could be modified by other legislation. There was also a lack of clarity regarding the conditions governing the alternatives to military service.

71. According to the delegation, one of the criteria for pre-trial detention was that it should in no case exceed two thirds of the penalty that might be incurred. Such a link between detention and a hypothetical penalty could be viewed as an infringement of the presumption of innocence.

72. Asylum-seekers required authorization to leave their reception centres and the maximum duration of such authorization was 72 hours. That was a violation of the freedom of movement of persons who had committed no offence and whose status must be respected. The conditions governing searches and questioning in frontier areas were also a source of concern.

73. Lastly, there seemed to be shortcomings in the area of freedom of religion and association, particularly with regard to the requirements for registration and the classification of religions in what seemed like higher and lower categories.

74. Although Lithuania's second periodic report was due in February 1998, more time was obviously needed to take account of the Committee's recommendations.

75. Mr. JANUSKA (Lithuania) said that the delegation had been nervous about its first appearance before the Committee but had been set at ease by the openness and forbearance of its members. Their observations would be communicated to the Lithuanian authorities. He trusted that on the next occasion his delegation appeared before the Committee his country would have taken a major step forward and, in particular, the death penalty would have been abolished.

The meeting rose at 6.05 p.m.